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Paper No. 7

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SEP - 4 2002

In re Application of:	:	
Takashi Ono <i>et al.</i>	:	DECISION TO WITHDRAW
Application No. 09/585,607	:	HOLDING
Filed: June 2, 2000	:	OF ABANDONMENT
Atty Docket No. 35.G2607	:	

This is a decision on the petition filed August 5, 2002, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **granted**.

The application was held abandoned for failure to timely file a response to the Office action mailed on September 19, 2001. A Notice of Abandonment was mailed on June 20, 2002.

Petitioner asserts that a response was timely filed in the United States Patent and Trademark Office (PTO) on October 19, 2001. To support this assertion, petitioner has submitted a copy of the response bearing a certificate of mailing under 37 CFR § 1.8(a) having a date of deposit of October 19, 2001, and a statement which attests to the previous timely mailing of the response.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending

Decision on Petition to Withdraw Holding of Abandonment

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unit's report confirming transmission may be used to support this statement.

The petition meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response. Accordingly, the petition is **granted**.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the petition on August 5, 2002, is hereby accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for further action.

Inquiries regarding this decision should be directed to Ed Glick at (703) 308-4858.



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Technology Center 2800  
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